

[2024] 3 S.C.R. 157 : 2024 INSC 172

Prabhat Kumar Mishra @ Prabhat Mishra

v.

The State of U.P. & Anr.

(Criminal Appeal No.(s). 1397 of 2024)

05 March 2024

[B.R. Gavai and Sandeep Mehta,* JJ.]

Issue for Consideration

High Court, if justified in rejecting the application filed by the accused appellant u/s. 482 CrPC seeking quashing of proceeding of the criminal case registered against him u/s. 306 IPC and s. 3(2)(v) of the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989.

Headnotes

Penal Code, 1860 – ss. 306, 107 – Abetment of suicide – Allegations set out in the suicide note, if constitutes necessary ingredients of abetment to commit suicide – Suicide note by the victim-posted as Senior Clerk, that he was frustrated and bothered by the style of functioning of the appellant-District Saving Officer and of the Chief Development Officer and thus, was left with no option but to end his life, and was also bothered by the pressure of working in two districts – Criminal proceedings against the appellant for the offences punishable u/s. 306 and s. 3(2)(v) of the SC/ST Act – Application by the appellant u/s. 482 CrPC seeking quashing of proceedings – Rejected by the High Court – Justification:

Held: Prosecution of the appellant for the offence u/s.3(2)(v) of the SC/ST Act is ex facie illegal and unwarranted since from the admitted allegations of the prosecution, the necessary ingredients of the offence u/s.3(2)(v) of the SC/ST Act are not made out – Prosecution case is entirely based on the suicide note left behind by the victim before committing suicide – On a minute perusal of the suicide note, the contents thereof do not indicate any act or omission on the part of the appellant which could make him responsible for abetment as defined u/s. 107 – Suicide note clearly shows that the deceased was frustrated on account of work pressure and was apprehensive of various random factors unconnected to his official duties – Necessary ingredients of the offence of abetment to commit suicide are not made out from the chargesheet – Thus, allowing prosecution of the appellant is grossly illegal for the offences

* Author

Digital Supreme Court Reports

punishable u/s.306 and s.3(2)(v) of the SC/ST Act tantamounts to gross abuse of process to law – Also, investigating agency itself proposed a closure report in the matter after conducting thorough investigation – Thus, the impugned order passed by the High Court and all proceedings sought to be taken against the appellant in the criminal case pending, quashed and set aside. [Paras 16, 18, 22-25]

Case Law Cited

Masumsha Hasanasha Musalman v. State of Maharashtra, [\[2000\] 1 SCR 1155](#) : (2000) 3 SCC 557; *Netai Dutta v. State of W.B.*, (2005) 2 SCC 659; *M. Mohan v. State represented by the Deputy Superintendent of Police*, [\[2011\] 3 SCR 437](#) : (2011) 3 SCC 626 – referred to.

List of Acts

Penal Code, 1860; Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1989; Code of Criminal Procedure, 1973.

List of Keywords

Abetment of suicide; Suicide; Suicide note; Caste; Act or omission; Frustrated on account of work pressure.

Case Arising From

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No.1397 of 2024

From the Judgment and Order dated 26.07.2022 of the High Court of Judicature at Allahabad in A482 No.12691 of 2015

Appearances for Parties

Pallav Shishodia, Sr. Adv., Danish Zubair Khan, Ajeet Pandey, Dr. Lokendra Malik, Advs. for the Appellant.

Ankit Goel, Ram Shiromani Yadav, Advs. for the Respondents.

Judgment / Order of the Supreme Court

Judgment

Mehta, J.

1. Leave granted.
2. This appeal is directed against the judgment dated 26th July, 2022 passed by the High Court of Judicature at Allahabad rejecting the

Prabhat Kumar Mishra @ Prabhat Mishra v. The State of U.P. & Anr.

Criminal Misc. Application No. 12691 of 2015 filed by the accused appellant herein under Section 482 of Court of Criminal Procedure, 1973(hereinafter being referred to as 'CrPC').

3. By way of the said application, the accused appellant sought quashing of proceeding of the Criminal Case No. 6476 of 2005 pending against him in the Court of learned Chief Judicial Magistrate, Farrukhabad for the offences punishable under Section 306 of the Indian Penal Code, 1860(hereinafter being referred to as the 'IPC') and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter being referred to as 'SC/ST Act').
4. The case aforesaid came to be registered on the basis of a charge-sheet filed by the investigating agency pursuant to investigation of C.C. No. 516/2002 P.S. Kotwali, District Farrukhabad.
5. The accused appellant herein was working as the District Savings Officer in Kannauj District. It is alleged that one Data Ram(deceased), posted as Senior Clerk, Child Welfare Board, Fatehgarh, committed suicide on 3rd October, 2002 by consuming a poisonous substance in his own house. The deceased wrote a suicide note before ending his life.
6. The dead body of the Data Ram was recovered lying in his house, i.e. Mohalla Gwal Toli, Fatehgarh, District-Farrukhabad. FIR No. 249/2002 came to be registered at P.S. Kotwali, Fatehgarh on the basis of the suicide note left behind by the deceased for the offences punishable under Section 306 IPC and Section 3(2)(v) of the SC/ST Act.
7. The Investigating Officer conducted the investigation and filed a closure report. Later on, investigation was re-opened and Charge-sheet No. 253 of 2002 came to be filed against the accused appellant for the offences punishable under Section 306 IPC and Section 3(2)(v) of the SC/ST Act.
8. The suicide note written by the deceased which forms the basis of the FIR and the charge-sheet is reproduced hereinbelow for the sake of ready reference: -

“The learned District Magistrate

It is hereby informed that on 1.10.2002 in night time at 8 'O' Clock, the District Savings Officer Kannauj Shri

Digital Supreme Court Reports

Prabhat Mishra made telephonic call to me and even got my conversations done from Chief Development Officer, Kannauj and told that you come to Kannauj on 2.10.2002 in morning at 11 O' Clock and meet me and some information has to be prepared. On 2.10.2002, at 10 O'Clock, I went to District Social Welfare Officer for obtaining permission to go to Kannauj, then he directed me to not go to Kannauj. When, it has already been written to the District Savings Officer that you call your record, then, you do not need to go there. Thereafter, I returning back to the Office, started performing official work. In noon time at 12.30 O' Clock, the Chief Development Officer, gave me information on telephone that you leave all your work and go to Kannauj and meet the learned District Magistrate. I immediately reached Kannauj by Scooter, where, at 2:15 O' Clock, I went the bungalow of District Magistrate, where, it was told that the learned District Magistrate has departed and you please meet the District Savings Officer Prabhat Mishra, then, I went to Shri Mishra at 2:45 O' Clock, then, he continued sitting me in his Office till 5:30 O' Clock and told me that the learned District Magistrate has not sit till now and we will go from here at 5 O'clock. At 5:30 O' Clock, Shri Mishra had taken me to the Chief Development Officer Shri Shashidhar Dwivedi. Conversation of Shri Mishra had already taken place previously with CDO Sahab. The CDO Sahab asked that why the pension of 327 widows has not been distributed yet, then I replied that due to non-availability of their bank accounts, it could not have been distributed. On this, he, while using very indecent words, used odd words against me very much and that I am unable to give full particulars of above. He told me that even after my call, you did not come to me, have you become a very big governor. Further says that DM Sahab has refused to go there and thereat, he keeps filling the Officers a lot and does not want to perform work and even everything was told about Suspension and other things. Thereafter, Shri Mishra had taken me at the residence of learned District Magistrate from where, I was called at 7:30 O'clock. After making me aware about the information, the respected

Prabhat Kumar Mishra @ Prabhat Mishra v. The State of U.P. & Anr.

sir asked me reason for not coming to Kannauj, then, I made him aware about the situation.

Sir, it is requested that I, even after the fact that the post of District Probation Officer is lying vacant, am executing, and discharging my duties diligently with honesty and full devotion. Due to non-availability of my Officers in two districts, now, it is beyond my control to perform work with two different Officers. Sir, it was told by you that to not go to Kannauj and discharge your duty of Farrukhabad smoothly, but, I was suddenly given order to go to Kannauj that you leave all the work and come to Kannauj and then, I have already sent the information on 1.10.2002, to the District Economics and Statistics Officer, Kannauj, where it was available, but, I was called only for insulting me.

Even I also understand this fact that during my lifetime, duties of both the Districts will not be discharged and I will continuously grinding in between two Officers equally. So, for avoiding from the torture of Shri Prabhat Mishra and Shri Shashidhar Dwivedi, Chief Development Officer, I am sacrificing my life, so that, I, while visiting Kannauj, may not be compelled to be harassed till now, I have not been insulted and harassed by any learned District Magistrate/ Chief Development Officer, in this manner and all the Officers have appreciated my duties and work. With touching feet with respect, please forgive me. With best regards.”

9. It is not in dispute that the aforesaid suicide note is the only foundation of the charge-sheet filed against the accused appellant. The accused appellant approached the High Court by filing an application under Section 482 CrPC for quashing of the chargesheet and proceedings of the criminal case registered against him. The said application was rejected vide order dated 26th July 2022 which is challenged in this appeal.
10. Mr. Pallav Shishodia, learned senior counsel appearing for the accused appellant contended that even if the allegations as set out in the suicide note are taken to be true on their face value, the same do not constitute the necessary ingredients of the offences alleged and hence, it is a fit case wherein the charge-sheet deserves to be quashed.

Digital Supreme Court Reports

11. Learned senior counsel contended that from the admitted allegations as set out in the aforesaid suicide note (*supra*), no inference can be drawn that the appellant in any manner, instigated or abetted the deceased to commit suicide. At best, what can be inferred from the suicide note (*supra*) is that the deceased was frustrated and bothered by the style of functioning of the appellant herein and of Shashidhar Dwivedi, CDO, and thus he felt that he was left with no option but to end his life. He also seems to have been bothered by the pressure of working in two districts and took the extreme step of ending his life being unable to withstand the pressure.
12. Learned senior counsel further urged that all proceedings sought to be taken against the appellant as a consequence of the charge sheet, deserve to be quashed as the same amount to an abuse of process of the Court.
13. *Per contra*, Mr. Ankit Goel, learned standing counsel for the State of Uttar Pradesh has opposed the submissions advanced by the learned senior counsel representing the accused appellant.
14. Learned counsel for the State urged that the appellant and Shashidar Dwivedi, CDO being the superior officers of the deceased, harassed and humiliated him to such an extent that he was left with no option but to end his life. The allegations set out in the suicide note constitute the necessary ingredients of abetment to commit suicide. Thus, it is not a fit case warranting interference in the well-reasoned order passed by the High Court refusing to interfere and quash the proceedings of the criminal case registered against the appellant.
15. We have given our thoughtful consideration to the submissions advanced at bar and have gone through the material placed on record.
16. At the outset, we may take note of the fact that the prosecution of the appellant herein for the offence under Section 3(2)(v) of the SC/ST Act is *ex facie* illegal and unwarranted because it is nowhere the case of the prosecution in the entire charge-sheet that the offence under IPC was committed by the appellant upon the deceased on the basis of his caste.
17. This Court in the case of [Masumsha Hasanasha Musalman v. State of Maharashtra](#)¹ considered this issue and held as under:-

1 [\[2000\] 1 SCR 1155](#) : (2000) 3 SCC 557

Prabhat Kumar Mishra @ Prabhat Mishra v. The State of U.P. & Anr.

“9. Section 3(2)(v) of the Act provides that whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, commits any offence under the Penal Code, 1860 punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine. In the present case, there is no evidence at all to the effect that the appellant committed the offence alleged against him on the ground that the deceased is a member of a Scheduled Caste or a Scheduled Tribe. To attract the provisions of Section 3(2)(v) of the Act, the sine qua non is that the victim should be a person who belongs to a Scheduled Caste or a Scheduled Tribe and that the offence under the Penal Code, 1860 is committed against him on the basis that such a person belongs to a Scheduled Caste or a Scheduled Tribe. In the absence of such ingredients, no offence under Section 3(2)(v) of the Act arises. In that view of the matter, we think, both the trial court and the High Court missed the essence of this aspect. In these circumstances, the conviction under the aforesaid provision by the trial court as well as by the High Court ought to be set aside.”

18. Thus, from the admitted allegations of the prosecution, the necessary ingredients of the offence under Section 3(2)(v) of the SC/ST Act are not made out so as to justify prosecution of the accused appellant for the said offence.
19. The parameters required to bring an act or omission by the person charged within the purview of the offence under Section 306 IPC have been elaborated by this Court time and again and a few of these judgments are quoted below for ready reference.
20. In the case of **Netai Dutta v. State of W.B.**² in almost similar circumstances, this Court quashed the proceedings sought to be taken against the petitioner under Section 306 IPC. The relevant observations from the said judgment are reproduced as under:-

Digital Supreme Court Reports

“4. One Pranab Kumar Nag was an employee of M/s M.L. Dalmiya & Co. Ltd. During the course of his employment, he had been posted at various worksites of the Company and on 11-9-1999 he was transferred to the worksite of the Company’s stores located at 160, B.L. Saha Road, Kolkata. It seems that pursuant to the transfer order, Pranab Kumar Nag did not join duty and after a period of about two years he sent in a letter of resignation written in his own hand wherein he expressed his grievance of stagnancy of salary and also alleged that he was a victim of unfortunate circumstances. The Company accepted his resignation with immediate effect. On 16-2-2001, a dead body was found at the railway tracks near Ballygunge Railway Station and it was revealed that it was the body of Pranab Kumar Nag. His brother went to the office where Pranab Kumar Nag had worked and made enquiries. The dead body of Pranab Kumar Nag was released to his brother after the post-mortem examination on 19-2-2001. After a period of two months, a complaint was lodged before the police post on the basis of a suicide note allegedly recovered from the dead body of Pranab Kumar Nag. Based on the complaint, a case was registered against the appellant and some others. A translated copy of the suicide note is produced before us by the appellant. We have carefully read the alleged suicide note. The substance of this suicide note is that deceased Pranab Kumar Nag alleged that appellant Netai Dutta and one Paramesh Chatterjee engaged him in several wrongdoings (he has shown as a type of torture) and at the end of the letter, a reference is also made to Paramesh Chatterjee and Netai Dutta alleging that he reported certain incidents to them. A reading of the letter would show that deceased Pranab Kumar Nag was not very much satisfied with the working conditions in the office. In the letter he has stated that he had to be at the workplace sometimes throughout the day and night and he had to remain in the company of some drivers who had been sometimes in drunken condition at about one o’clock or two o’clock in the night. It is also alleged that the drivers who had been present at the workplace had

Prabhat Kumar Mishra @ Prabhat Mishra v. The State of U.P. & Anr.

been having non-vegetarian food. He also complained that he had to work even on Sundays. He further stated that one day he could leave the workplace at 8 o'clock in the evening and all the restaurants were closed and that he reported the matter to the present appellant.

5. There is absolutely no averment in the alleged suicide note that the present appellant had caused any harm to him or was in any way responsible for delay in paying salary to deceased Pranab Kumar Nag. It seems that the deceased was very much dissatisfied with the working conditions at the workplace. But, it may also be noticed that the deceased after his transfer in 1999 had never joined the office at 160, B.L. Saha Road, Kolkata and had absented himself for a period of two years and that the suicide took place on 16-2-2001. It cannot be said that the present appellant had in any way instigated the deceased to commit suicide or he was responsible for the suicide of Pranab Kumar Nag. An offence under Section 306 IPC would stand only if there is an abetment for the commission of the crime. The parameters of "abetment" have been stated in Section 107 of the Penal Code, 1860. Section 107 says that a person abets the doing of a thing, who instigates any person to do that thing; or engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, or the person should have intentionally aided any act or illegal omission. The Explanation to Section 107 says that any wilful misrepresentation or wilful concealment of a material fact which he is bound to disclose, may also come within the contours of "abetment".

6. In the suicide note, except referring to the name of the appellant at two places, there is no reference of any act or incidence whereby the appellant herein is alleged to have committed any wilful act or omission or intentionally aided or instigated the deceased Pranab Kumar Nag in committing the act of suicide. There is no case that the appellant has played any part or any role in any conspiracy,

Digital Supreme Court Reports

which ultimately instigated or resulted in the commission of suicide by deceased Pranab Kumar Nag.

7. Apart from the suicide note, there is no allegation made by the complainant that the appellant herein in any way was harassing his brother, Pranab Kumar Nag. The case registered against the appellant is without any factual foundation. The contents of the alleged suicide note do not in any way make out the offence against the appellant. The prosecution initiated against the appellant would only result in sheer harassment to the appellant without any fruitful result. In our opinion, the learned Single Judge seriously erred in holding that the first information report against the appellant disclosed the elements of a cognizable offence. There was absolutely no ground to proceed against the appellant herein. We find that this is a fit case where the extraordinary power under Section 482 of the Code of Criminal Procedure is to be invoked. We quash the criminal proceedings initiated against the appellant and accordingly allow the appeal.”

21. In the case of *M. Mohan v. State represented by the Deputy Superintendent of Police*³, this Court held as below:-

“36. We would like to deal with the concept of “abetment”. Section 306 of the Code deals with “abetment of suicide” which reads as under:

“306. Abetment of suicide. —If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

37. The word “suicide” in itself is nowhere defined in the Penal Code, however, its meaning and import is well known and requires no explanation. “Sui” means “self” and “cide” means “killing”, thus implying an act of self-killing. In short, a person committing suicide must commit it by himself, irrespective of the means employed by him in achieving his object of killing himself.

3 [\[2011\] 3 SCR 437](#) : (2011) 3 SCC 626

Prabhat Kumar Mishra @ Prabhat Mishra v. The State of U.P. & Anr.

38. In our country, while suicide itself is not an offence considering that the successful offender is beyond the reach of law, attempt to suicide is an offence under Section 309 IPC.

39. “Abetment of a thing” has been defined under Section 107 of the Code. We deem it appropriate to reproduce Section 107, which reads as under:

“107. Abetment of a thing.—A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aides, by any act or illegal omission, the doing of that thing.”

Explanation 2 which has been inserted along with Section 107 reads as under:

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

40. The learned counsel also placed reliance on yet another judgment of this Court in *Ramesh Kumar v. State of Chhattisgarh* [(2001) 9 SCC 618], in which a three- Judge Bench of this Court had an occasion to deal with the case of a similar nature. In a dispute between the husband and wife, the appellant husband uttered “you are free to do whatever you wish and go wherever you like”. Thereafter, the wife of the appellant Ramesh Kumar committed suicide.

41. This Court in SCC para 20 of *Ramesh Kumar* [(2001) 9 SCC 618] has examined different shades of the meaning of “instigation”. Para 20 reads as under: (SCC p. 629)

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do ‘an act’. To satisfy the requirement of instigation though it is not necessary that actual words

Digital Supreme Court Reports

must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

In the said case this Court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant accused having abetted commission of suicide by Seema (the appellant's wife therein) may necessarily be drawn.

42. In *State of W.B. v. Orilal Jaiswal* [(1994) 1 SCC 73], this Court has cautioned that (SCC p. 90, para 17) the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end her life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life, quite common to the society, to which the victim belonged and such petulance, discord and difference were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

43. This Court in *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)* [(2009) 16 SCC 605] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word "instigation" and "goading". The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of

Prabhat Kumar Mishra @ Prabhat Mishra v. The State of U.P. & Anr.

self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

44. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

45. The intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide.

46. In *V.P. Shrivastava v. Indian Explosives Ltd.* [(2010) 10 SCC 361] this Court has held that when prima facie no case is made out against the accused, then the High Court ought to have exercised the jurisdiction under Section 482 CrPC and quashed the complaint.

47. In a recent judgment of this Court in *Madan Mohan Singh v. State of Gujarat* [(2010) 8 SCC 628], this Court quashed the conviction under Section 306 IPC on the ground that the allegations were irrelevant and baseless and observed that the High Court was in error in not quashing the proceedings.

48. In the instant case, what to talk of instances of instigation, there are even no allegations against the appellants. There is also no proximate link between the incident of 14-1-2005 when the deceased was denied permission to use the Qualis car with the factum of suicide which had taken place on 18-1-2005. Undoubtedly, the deceased had died because of hanging. The deceased was undoubtedly hypersensitive to ordinary petulance, discord and differences which happen in our day-to-day life. In a joint family, instances of this kind are not very uncommon. Human sensitivity of each individual differs from person to person. Each individual has his own idea of self-esteem and self-respect. Different people behave differently in the same

Digital Supreme Court Reports

situation. It is unfortunate that such an episode of suicide had taken place in the family. But the question that remains to be answered is whether the appellants can be connected with that unfortunate incident in any manner?

49. On a careful perusal of the entire material on record and the law, which has been declared by this Court, we can safely arrive at the conclusion that the appellants are not even remotely connected with the offence under Section 306 IPC. It may be relevant to mention that criminal proceedings against the husband of the deceased Anandraj (A-1) and Easwari (A-3) are pending adjudication.

62. In *State of Haryana v. Bhajan Lal* [1992 Supp (1) SCC 335] this Court in the backdrop of interpretation of various relevant provisions of the Code of Criminal Procedure under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 of the Constitution of India or the inherent powers under Section 482 CrPC, gave the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of the court or otherwise to secure the ends of justice. Thus, this Court made it clear that it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list to myriad kinds of cases wherein such power should be exercised : (SCC pp. 378-79, para 102)

- “(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

Prabhat Kumar Mishra @ Prabhat Mishra v. The State of U.P. & Anr.

- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
- (5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
- (6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.
- (7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

65. This Court in *Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque* [(2005) 1 SCC 122] observed thus : (SCC p. 128, para 8)

“8. ... It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence

Digital Supreme Court Reports

is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.”

68. In the light of the settled legal position, in our considered opinion, the High Court was not justified in rejecting the petition filed by the appellants under Section 482 CrPC for quashing the charges under Section 306 IPC against them. The High Court ought to have quashed the proceedings so that the appellants who were not remotely connected with the offence under Section 306 IPC should not have been compelled to face the rigmaroles of a criminal trial. As a result, the charges under Section 306 IPC against the appellants are quashed.”

22. It is not in dispute that the prosecution case is entirely based on the suicide note left behind by the deceased before committing suicide. On a minute perusal of the suicide note, we do not find that the contents thereof indicate any act or omission on the part of the accused appellant which could make him responsible for abetment as defined under Section 107 IPC.
23. We have minutely perused the suicide note (reproduced *supra*) which clearly shows that the deceased was frustrated on account of work pressure and was apprehensive of various random factors unconnected to his official duties. He was also feeling the pressure of working in two different districts. However, such apprehensions expressed in the suicide note, by no stretch of imagination, can be considered sufficient to attribute to the appellant, an act or omission constituting the elements of abetment to commit suicide. The facts of the case at hand are almost identical to the case of **Netai Dutta** (*supra*). Thus, we have no hesitation in holding that the necessary ingredients of the offence of abetment to commit suicide are not made out from the chargesheet and hence allowing prosecution of the appellant is grossly illegal for the offences punishable under Section 306 IPC and Section 3(2)(v) of the SC/ST Act tantamounts to gross abuse of process to law.

Prabhat Kumar Mishra @ Prabhat Mishra v. The State of U.P. & Anr.

24. It may be noted that in the first instance, the investigating agency itself proposed a closure report in the matter after conducting thorough investigation. In this background, we are of the opinion that there do not exist any justifiable ground so as to permit the prosecution of the appellant for the offences under Section 306 IPC and Section 3(2)(v) of the SC/ST Act.
25. Thus, the impugned order passed by the High Court and all proceedings sought to be taken against the appellant in the criminal case pending for the offences punishable under Section 306 IPC and Section 3(2)(v) of the SC/ST Act are hereby quashed and set aside.
26. The appeal is allowed accordingly.
27. Pending application(s), if any, shall stand disposed of.

Headnotes prepared by: Nidhi Jain

Result of the case:
Appeal allowed.